

AMENDED IN SENATE APRIL 22, 2004

AMENDED IN SENATE APRIL 16, 2004

SENATE BILL

No. 1618

Introduced by Senator Battin

(Principal coauthor: Assembly Member Nakanishi)

February 20, 2004

An act to amend Section 226 of the Labor Code, relating to employee compensation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1618, as amended, Battin. Employee compensation.

Existing law requires every employer to, at the time of each payment of wages, furnish each employee with an accurate itemized statement showing, among other things, the name of the employee and his or her social security number. Existing law provides that a knowing and intentional violation of this provision is a misdemeanor.

This bill would, instead, require an employer to furnish each employee with an accurate itemized statement showing no more than the last 4 digits of the employee's social security number or an existing employee identification number other than a social security number. By requiring the state, counties, and cities to furnish each employee with an accurate itemized statement showing no more than the last 4 digits or less of the employee's social security number, or an existing employee identification number other than a social security number, the violation of which is a misdemeanor, this bill would impose a state-mandated local program.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.~~

~~Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 226 of the Labor Code is amended to
2 read:
3 226. (a) Every employer shall, semimonthly or at the time of
4 each payment of wages, furnish each of his or her employees,
5 either as a detachable part of the check, draft, or voucher paying
6 the employee's wages, or separately when wages are paid by
7 personal check or cash, an accurate itemized statement in writing
8 showing (1) gross wages earned, (2) total hours worked by the
9 employee, except for any employee whose compensation is solely
10 based on a salary and who is exempt from payment of overtime
11 under subdivision (a) of Section 515 or any applicable order of the
12 Industrial Welfare Commission, (3) the number of piece-rate units
13 earned and any applicable piece rate if the employee is paid on a
14 piece-rate basis, (4) all deductions, provided that all deductions
15 made on written orders of the employee may be aggregated and
16 shown as one item, (5) net wages earned, (6) the inclusive dates of
17 the period for which the employee is paid, (7) the name of the
18 employee and no more than the last four digits of his or her social

1 security number or an existing employee identification number
2 other than a social security number, (8) the name and address of
3 the legal entity that is the employer, and (9) all applicable hourly
4 rates in effect during the pay period and the corresponding number
5 of hours worked at each hourly rate by the employee. The
6 deductions made from payments of wages shall be recorded in ink
7 or other indelible form, properly dated, showing the month, day,
8 and year, and a copy of the statement or a record of the deductions
9 shall be kept on file by the employer for at least three years at the
10 place of employment or at a central location within the State of
11 California.

12 (b) An employer that is required by this code or any regulation
13 adopted pursuant to this code to keep the information required by
14 subdivision (a) shall afford current and former employees the right
15 to inspect or copy the records pertaining to that current or former
16 employee, upon reasonable request to the employer. The employer
17 may take reasonable steps to assure the identity of a current or
18 former employee. If the employer provides copies of the records,
19 the actual cost of reproduction may be charged to the current or
20 former employee.

21 (c) An employer who receives a written or oral request to
22 inspect or copy records pursuant to subdivision (b) pertaining to
23 a current or former employee shall comply with the request as soon
24 as practicable, but no later than 21 calendar days from the date of
25 the request. A violation of this subdivision is an infraction.
26 Impossibility of performance, not caused by or a result of a
27 violation of law, shall be an affirmative defense for an employer
28 in any action alleging a violation of this subdivision. An employer
29 may designate the person to whom a request under this subdivision
30 will be made.

31 (d) This section does not apply to any employer of any person
32 employed by the owner or occupant of a residential dwelling
33 whose duties are incidental to the ownership, maintenance, or use
34 of the dwelling, including the care and supervision of children, or
35 whose duties are personal and not in the course of the trade,
36 business, profession, or occupation of the owner or occupant.

37 (e) An employee suffering injury as a result of a knowing and
38 intentional failure by an employer to comply with subdivision (a)
39 is entitled to recover the greater of all actual damages or fifty
40 dollars (\$50) for the initial pay period in which a violation occurs

1 and one hundred dollars (\$100) per employee for each violation in
2 a subsequent pay period, not exceeding an aggregate penalty of
3 four thousand dollars (\$4,000), and is entitled to an award of costs
4 and reasonable attorney's fees.

5 (f) A failure by an employer to permit a current or former
6 employee to inspect or copy records within the time set forth in
7 subdivision (c) entitles the current or former employee or the
8 Labor Commissioner to recover a seven hundred fifty dollar
9 (\$750) penalty from the employer.

10 (g) An employee may also bring an action for injunctive relief
11 to ensure compliance with this section, and is entitled to an award
12 of costs and reasonable attorney's fees.

13 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
14 ~~Section 6 of Article XIII B of the California Constitution for~~
15 ~~certain costs that may be incurred by a local agency or school~~
16 ~~district because in that regard this act creates a new crime or~~
17 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
18 ~~for a crime or infraction, within the meaning of Section 17556 of~~
19 ~~the Government Code, or changes the definition of a crime within~~
20 ~~the meaning of Section 6 of Article XIII B of the California~~
21 ~~Constitution.~~

22 ~~However, notwithstanding Section 17610 of the Government~~
23 ~~Code, if the Commission on State Mandates determines that this~~
24 ~~act contains other costs mandated by the state, reimbursement to~~
25 ~~local agencies and school districts for those costs shall be made~~
26 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
27 ~~4 of Title 2 of the Government Code. If the statewide cost of the~~
28 ~~claim for reimbursement does not exceed one million dollars~~
29 ~~(\$1,000,000), reimbursement shall be made from the State~~
30 ~~Mandates Claims Fund.~~

31 *SEC. 2. No reimbursement is required by this act pursuant to*
32 *Section 6 of Article XIII B of the California Constitution because*
33 *the only costs that may be incurred by a local agency or school*
34 *district will be incurred because this act creates a new crime or*
35 *infraction, eliminates a crime or infraction, or changes the penalty*
36 *for a crime or infraction, within the meaning of Section 17556 of*
37 *the Government Code, or changes the definition of a crime within*

1 *the meaning of Section 6 of Article XIII B of the California*
2 *Constitution.*

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